

ECONOMIC, SMALL BUSINESS, AND CONSUMER IMPACT STATEMENT¹

TITLE 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

1. Identification of the rulemaking:

The ASRS is amending the title of Article 1 to more clearly reflect the information contained in that article.

A.R.S. § 38-766.01 allows retired members to elect to continue receiving retirement benefits after returning to work for an ASRS Employer if specific criteria are met and it requires retired members to submit the Working After Retirement form to acknowledge such election. The ASRS needs to clarify that pursuant to A.R.S. § 38-766.01(C), an ASRS retired member who returns to work directly with an ASRS Employer must submit the Working After Retirement form to each of the retired member's current ASRS Employers through the retired member's secure website account. Upon the ASRS Employer's verification of the information contained in the Working After Retirement form, the ASRS Employer submits the validated information to the ASRS.

R2-8-117 will clarify that ASRS Employers must submit this form to the ASRS for each retired member who returns to work directly for an ASRS Employer. The ASRS may need to clarify that a retired member who returns to work for an ASRS Employer prior to the member's retirement date has not terminated employment for purposes of determining which retired members return to work under the return to work statute(s). In other words, the ASRS may need to clarify that in order to "return to work," a member must terminate, retire, and then, seek subsequent employment with an ASRS Employer. Also, the ASRS needs to clarify that a retired member must submit the Working After Retirement form within 30 days of commencing employment with an ASRS Employer. The Employer is also responsible for submitting a Working After Retirement form within 30 days of a change in employment status such as the intent to engage the retired member for 20 or more hours per week for 20 or more weeks in a fiscal year. Finally, the ASRS needs to clarify what may happen if a retired member or the retired member's ASRS Employer is found to be in violation of the return to work statute(s). These clarifications will ensure that the ASRS, its Employers, and its members have prompt notice about which retired members are returning to work for which ASRS Employers, and the process for reporting return to work information.

¹ If adequate data are not reasonably available, the agency shall explain the limitations of the data, the methods used in an attempt to obtain the data, and characterize the probable impacts in qualitative terms. (A.R.S. § 41-1055(C)).

The rule language outlined above will clarify how the ASRS administers the “return to work” program, thereby increasing understandability of program requirements which will reduce the regulatory burden on the public.

a. The conduct and its frequency of occurrence that the rule is designed to change:

A.R.S. § 38-766.01 requires the retired member to submit the Working After Retirement form and requires the Employer to verify that form before submitting it to the ASRS. The form is intended to identify whether a retired member who is returning to work for 20 or more hours per week for 20 or more weeks per fiscal year, may continue to receive a pension, or whether the ASRS must suspend the retiree’s pension. However, the ASRS does not always receive the Working After Retirement form from members/Employers which can lead to complications in determining whether and when a pension should be suspended. Such mistakes require additional administrative action to correct the return to work violation and result in further administrative delay.

b. The harm resulting from the conduct the rule is designed to change and the likelihood it will continue to occur if the rule is not changed:

If a retired member misunderstands how to return to work without violating statutes, the retired member may have their pension suspended unintentionally.

Misunderstanding “return to work” requirements may lead the ASRS paying incorrect benefit amounts to retired members who return to work which, in turn, may decrease the funded status of the ASRS, resulting in increased rates for retirement and health benefit supplement contributions. As discussed above, pension mistakes may occur when the ASRS does not receive a Working After Retirement form for a retired member who returns to work. Such mistakes must be corrected when they are discovered which can lead to further administrative delay and expenses in order to ensure a retired member is accurately receiving a pension. By clarifying when and how to submit the Working After Retirement form, fewer mistakes will be made and the ASRS will obtain more accurate information about who is returning to work and

when. Thus, the conduct is likely to continue without this rulemaking because, as discussed above, many members have difficulty in understanding the “return to work” program requirements.

c. The estimated change in frequency of the targeted conduct expected from the rule change:

This rulemaking will clarify when and how “return to work” information is required, thereby increasing understandability of the “return to work” program and reducing incorrect benefits paid by the ASRS as a result of misunderstanding. As discussed above and below, these rules will increase clarity and consistency of the “return to work” program, which will result in reducing retired members’ confusion, as well as any potential delay caused by the confusion.

2. A brief summary of the information included in the economic, small business, and consumer impact statement:

The ASRS promulgates rules that allow the agency to provide for the proper administration of the state retirement trust fund. ASRS rules affect ASRS members and ASRS employers regarding how they contribute to, and receive benefits from, the ASRS. The ASRS effectively administers how public-sector employers and employees participate in the ASRS. As such, the ASRS does not issue permits or licenses, or charge fees, and its rules have little to no economic impact on private-sector businesses, with the exception of some employer partner charter schools, which have voluntarily contracted to join the ASRS. Thus, there is little to no economic, small business, or consumer impact, other than the minimal cost to the ASRS to prepare the rule package. The rules will have minimal economic impact, if any, because the rulemaking simply clarifies statutory requirements that already exist. There may be some economic impact to an Employer who employs a retired member because the Employer must submit a verified Working After Retirement form for each retired member. However, A.R.S. § 38-766.01 already requires the retired member to submit the Working After Retirement form and requires the Employer to verify that form before submitting it to the ASRS. Clarifying how a retired member and an ASRS Employer must submit the Working After Retirement form, will increase understandability of the statutory requirements in A.R.S. § 38-766.01, thereby reducing the regulatory burden imposed on the public. This clarification will ensure that ASRS Employers have notice about which personnel require the

ASRS Employer to submit a Working After Retirement form to the ASRS. Thus, the economic impact is minimized.

3. The person to contact to submit or request additional data on the information included in the economic, small business, and consumer impact statement:

Name: Jessica A.R. Thomas, Rules Writer
Address: Arizona State Retirement System
3300 N. Central Ave., Suite 1400
Phoenix, AZ 85012-0250
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4. Persons who will be directly affected by, bear the costs of, or directly benefit from the rulemaking:

In general, all retired members of the ASRS and their Employers will be directly affected by, bear the costs of, and directly benefit from this rulemaking. The ASRS incurred the cost of the rulemaking. The ASRS currently has a total membership of approximately 558,136.

Specifically, retired members who wish to “return to work” will be affected by this rule. This rule will clarify the “return to work” program requirements. Such clarification will benefit members by increasing the understandability of the “return to work” program.

5. Cost-benefit analysis:

- a. Costs and benefits to state agencies directly affected by the rulemaking including the number of new full-time employees at the implementing agency required to implement and enforce the proposed rule:

All ASRS retired members are directly affected by this rulemaking because it will clarify what the “return to work” program requires. However, the ASRS has determined that no new full-time employees will be required to implement and enforce the rule.

- b. Costs and benefits to political subdivisions directly affected by the rulemaking:
This rulemaking does not provide any benefits or impose any costs on political subdivisions.

- c. Costs and benefits to businesses directly affected by the rulemaking:

No businesses are directly affected by the rulemaking.

6. Impact on private and public employment:

The rulemaking will have no impact on private or public employment, except to the extent that retired members may adjust when they retire and/or return to work based on a better understanding of the “return to work” program.

7. Impact on small businesses²:

a. Identification of the small business subject to the rulemaking:

No businesses, regardless of size, are subject to the rulemaking.

b. Administrative and other costs required for compliance with the rulemaking:

Not applicable.

c. Description of methods that may be used to reduce the impact on small businesses:

Not applicable.

8. Cost and benefit to private persons and consumers who are directly affected by the rulemaking:

All ASRS members are directly affected by the rulemaking. The effect has been previously described above.

9. Probable effects on state revenues:

There will be no effect on state revenues.

10. Less intrusive or less costly alternative methods considered:

The ASRS believes this is the least costly and least intrusive method because it will clarify the statutory requirements for the “return to work” program.

² Small business has the meaning specified in A.R.S. § 41-1001(20).

